



**MCI Communications
Corporation**

1801 Pennsylvania Avenue, NW
Washington, DC 20006
202 887 2048

Leonard S. Sawicki
Director
FCC Affairs

EX PARTE OR LATE FILED

April 3, 1998

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
Room 222
1919 M Street NW
Washington, D.C. 20554

EX PARTE

RECEIVED

APR - 3 1998

RECEIVED COMMUNICATIONS DIVISION
APR 3 1998

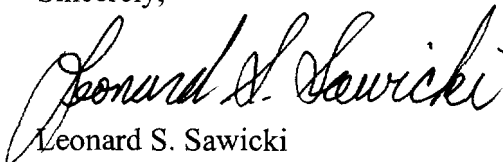
Re: CC Docket No. 94-129: Implementation of the Subscriber Carrier Selection
Provisions of the Telecommunications Act of 1996

Dear Ms. Salas:

On April 2, 1998, Mary Sisak, Paul Eskildsen and I met with Larry Strickling, Robert Spangler, and Glenn Reynolds of the Common Carrier Bureau. The purpose of the meeting was to review MCI's position in this proceeding. In particular, we discussed third party verification, PC freezes, inter-carrier compensation for unauthorized PC changes and third party PC administration.

Please add this letter and the enclosed copy to the record of this proceeding.

Sincerely,


Leonard S. Sawicki

Attachment

cc: Mr. Reynolds
Mr. Spangler
Mr. Strickling

No. of Copies rec'd 042
List A B C D E

Senate Bill No. 1140

CHAPTER 358

An act to repeal and add Section 2889.5 of the Public Utilities Code, relating to public utilities.

[Approved by Governor August 17, 1996. Filed with
Secretary of State August 19, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1140, Peace. Public utilities: telephones.

Under existing law, the Public Utilities Commission has the authority to regulate public utilities, including telephone corporations. Existing law prohibits a telephone corporation from authorizing a different telephone corporation to make any change in a telephone subscriber's long-distance carrier unless specified requirements have been met.

This bill would prohibit a residential subscriber's local exchange telephone corporation from making any change in the subscriber's provider of telephone service except upon an independent verification by a third party, and would make conforming changes reflecting federal law.

The people of the State of California do enact as follows:

SECTION 1. Section 2889.5 of the Public Utilities Code is repealed.

SEC. 2. Section 2889.5 is added to the Public Utilities Code, to read:

2889.5. (a) No telephone corporation, or any person, firm, or corporation representing a telephone corporation, shall make any change or authorize a different telephone corporation to make any change in the provider of any telephone service for which competition has been authorized of a telephone subscriber until all of the following steps have been completed:

(1) The telephone corporation, its representatives or agents shall thoroughly inform the subscriber of the nature and extent of the service being offered.

(2) The telephone corporation, its representatives or agents shall specifically establish whether the subscriber intends to make any change in his or her telephone service provider, and explain any charges associated with that change.

(3) For sales of residential service, the subscriber's decision to change his or her telephone service provider shall be confirmed by an independent third-party verification company. For purposes of

Ch. 358

— 2 —

this provision, the confirmation by a third-party verification company shall be made as follows:

(A) The third party verification company shall meet each of the following criteria:

(i) Be independent from the telephone corporation that seeks to provide the subscriber's new service.

(ii) Not be directly or indirectly managed, controlled, or directed, or owned wholly or in part, by the telephone corporation that seeks to provide the new service or by any corporation, firm, or person who directly or indirectly manages, controls, or directs, or owns more than 5 percent of the telephone corporation.

(iii) Operate from facilities physically separate from those of the telephone corporation that seeks to provide the subscriber's new service.

(iv) Not derive commissions or compensation based upon the number of sales confirmed.

(B) The telephone corporation seeking to verify the sale shall do so by connecting the subscriber by telephone to the third-party verification company or by arranging for the third party verification company to call the subscriber to confirm the sale.

(C) The third-party verification company shall obtain the subscriber's oral confirmation regarding the change, and shall record that confirmation by obtaining appropriate verification data. The record shall be available to the subscriber upon request. Information obtained from the subscriber through confirmation shall not be used for marketing purposes. Any unauthorized release of this information is grounds for a civil suit by the aggrieved subscriber against the telephone corporation or its employees who are responsible for the violation.

(D) Notwithstanding subparagraphs (A), (B), and (C), a service provider shall not be required to comply with these provisions when the customer directly calls the local service provider to make changes in service providers. However, a service provider shall not avoid the verification requirements by asking a subscribing customer to contact a local exchange service provider directly to make any change in the service provider. A local exchange service provider shall be required to comply with these verification requirements for its own competitive services. However, a local exchange service provider shall not be required to perform any verification requirements for any changes solicited by another telephone corporation.

(4) For sales of all nonresidential services, the subscriber's decision to change his or her service provider shall be confirmed through any of the following means:

(A) Independent third party verification, as set forth in paragraph (3) of subdivision (a).

— 3 —

Ch. 358

(B) The telephone corporation shall mail to the subscriber an information package seeking confirmation of his or her change in the telephone corporation. The information package shall describe the new service and shall include a postage prepaid postcard or mailer that the subscriber can use to deny, cancel, or confirm a service order, as soon as possible, and wait 14 days after the information package is mailed before making the change in the telephone corporation. The telephone corporation shall make the change only if the subscriber does not cancel the change in service order.

(C) Verify the subscriber's change in his or her telephone service provider by obtaining the subscriber's signature on a document fully explaining the nature and extent of the action. The document shall be a separate document whose sole purpose is to explain the nature and extent of the action.

(D) Obtain the subscriber's authorization through an electronic means that takes the information, including the calling number, and confirms the change to which the subscriber has given his or her consent.

(5) Where the telephone corporation obtains a written order for service, the document shall thoroughly inform the subscriber of the nature and extent of the action. The subscriber shall be furnished with a copy of the signed document. The subscriber by his or her signature on the document shall indicate a full understanding of the relationship being established with the telephone corporation. When a written subscriber solicitation or other document contains a letter of agency authorizing a change in service provider, in combination with other information including, but not limited to, inducements to subscribers to purchase service, the solicitation shall include a separate document whose sole purpose is to explain the nature and extent of the action. If any part of a mailing to a prospective subscriber is in language other than English, any written authorization contained in the mailing shall be sent to the same prospective subscriber in the same language.

(6) The telephone corporation shall retain a record of the verification of the sale for at least one year. These records shall be made available to the subscriber, the Attorney General, or the commission upon request.

(b) If a residential or business subscriber that has not signed an authorization notifies the telephone corporation within 90 days that he or she does not wish to change telephone corporations, the subscriber shall be switched back to his or her former telephone corporation at the expense of the telephone corporation that initiated the change.

(c) For purposes of this section, competitive services are those services where subscribers have the ability to presubscribe to a telephone service provider.

Ch. 358

— 4 —

(d) When a subscriber changes telephone service providers, the change shall be conspicuously noticed on the subscriber's bill. Notice in the following form is deemed to comply with this subdivision:

"NOTICE: Your local (or long distance) telephone service provider has been changed from (name of prior provider) to (name of current provider).

Cost of change: \$ _____."

(e) Any telephone corporation that violates the verification procedures described in this section shall be liable to the telephone corporation previously selected by the subscriber in an amount equal to all charges paid by the subscriber after the violation.

(f) The remedies provided by this section are in addition to any other remedies available by law.

(g) As described in federal law, no telephone corporation, or any person, firm, or corporation representing a telephone corporation, shall make any change or authorize a different telephone corporation to make any change in the provider of any telephone service for which competition has been authorized of a telephone subscriber without having on file, or having instituted reasonable steps designed to obtain, signed, dated orders for service from the subscriber. All orders shall be in the form prescribed in federal law for letters of agency. As described in federal law, the telephone corporation is responsible for charges associated with disputed changes in telephone service for which it cannot produce a signed, dated order for service from the subscriber. This subdivision applies to all intrastate services for which competition has been authorized.